

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 8/25/2015	(3) CONTACT/PHONE Schani Siong, Planner II /(805) 781-4374	
(4) SUBJECT Hearing to consider an appeal by Thomas Hilliard of the Subdivision Review Board decision to require Conditions of Approval 7 (gas line installation), 12 (Transfer of Development Credit requirement) and 13 (Community Water) as part of the approval of a Tentative Parcel Map (CO12-0065) to subdivide a 5 acre parcel into two 2.5 acre parcels located at 14284 Sandoval Road, south of the City of Atascadero; exempt from CEQA. District 5.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt the resolution and partially uphold the appeal of Thomas Hilliard by revising Conditions 7 and 13 of the Conditions of Approval, and partially deny the appeal by affirming the decision of the Subdivision Review Board to require Condition 12 of the Conditions of Approval and approve the application of Thomas Hilliard for a Parcel Map SUB2013-00070 (CO12-0065) based on the revised findings in Exhibit A and the revised conditions in Exhibit B of Attachment 1 (Board of Supervisors Resolutions with Findings and Conditions).			
(6) FUNDING SOURCE(S) Appeal Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. 30min) { } Board Business (Time Est.____)			
(11) EXECUTED DOCUMENTS {X} Resolutions { } Contracts { } Ordinances { } N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required {X} N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY {X} N/A Date: _____	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			
(18) SUPERVISOR DISTRICT(S) District 5			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Schani Siong, Planner II

VIA: Bill Robeson, Deputy Director – Permitting

DATE: 8/25/2015

SUBJECT: Hearing to consider an appeal by Thomas Hilliard of the Subdivision Review Board decision to require Conditions of Approval 7 (gas line installation), 12 (Transfer of Development Credit requirement) and 13 (Community Water) as part of the approval of a Tentative Parcel Map (CO12-0065) to subdivide a 5 acre parcel into two 2.5 acre parcels located at 14284 Sandoval Road, south of the City of Atascadero; exempt from CEQA. District 5.

RECOMMENDATION

It is recommended that the Board adopt the resolution and partially uphold the appeal of Thomas Hilliard by revising Conditions 7 and 13 of the Conditions of Approval, and partially deny the appeal by affirming the decision of the Subdivision Review Board to require Condition 12 of the Conditions of Approval and approve the application of Thomas Hilliard for a Parcel Map SUB2013-00070 (CO12-0065) based on the revised findings in Exhibit A and the revised conditions in Exhibit B of Attachment 1 (Board of Supervisors Resolutions with Findings and Conditions).

DISCUSSION

On May 4, 2015, the Subdivision Review Board considered a proposal by Thomas Hilliard for a Tentative Parcel Map for the subdivision of a five (5) acre lot into two 2.5-acre lots. The subject site is within the Residential Suburban land use category, and is located at 14284 Sandoval Road, approximately 1.1 miles southeast of the City of Atascadero. The site is in the Salinas River sub-area of the North County planning area and is located outside of an urban or village area.

The Subdivision Review Board conditionally approved the Tentative Parcel Map on May 4, 2015. On May 15, 2015, Thomas Hilliard filed a timely appeal of the Subdivision Review Board's decision.

APPEAL ISSUES

Issue 1. The appellant requests that the Board remove Condition of Approval No. 7 (Installation of New Gas Lines)

Staff Response: Condition No. 7 originated from Department of Public Works and is a standard subdivision improvement condition which includes installation of public utilities such as new gas mains and service laterals. This is consistent with design criteria for land divisions per Chapter 3 of the Title 21 of the Real Property Division Ordinance.

Condition No. 7 as approved by Subdivision Review Board:

7. New gas distribution mains shall be installed along the entire project frontage(s) and gas service laterals shall be stubbed to each new parcel unless otherwise directed by the gas purveyor.

The appellant notified Planning Staff after the Subdivision Review Board hearing that there was no gas service available to the subject parcel. The appellant has agreed to procure an evidentiary letter from the local gas purveyor confirming that no gas services are provided and available to this site and no future service is proposed in the vicinity.

Conclusion

Staff is recommending that Condition No.7 as approved by the Subdivision Review Board be revised to include a provision to exempt this requirement if the applicant provides an evidentiary refusal-to-serve letter from the local gas purveyor prior to recordation of final map.

Revised Condition No. 7:

7. New gas distribution mains shall be installed along the entire project frontage(s) and gas service laterals shall be stubbed to each new parcel unless otherwise directed by the gas purveyor. Prior to recordation of the final map, the applicant shall provide evidence of refusal-to-serve by the gas purveyor in order to be exempted from this requirement.

Issue 2. The appellant requests that the Board eliminate Condition of Approval No.12 (Transfer of Development Credits).

Staff Response: Condition No.12 requires the applicant to purchase one Transfer of Development Credit (TDC) prior to recordation of the parcel map. The appellant raised concerns that the Transfer of Development Credit Program is intended to provide credits for owners of lots that do not meet the minimum lot size requirements and could not otherwise subdivide their property. The appellant feels that this project site meets all zoning requirements and should therefore not be subject to payment of the TDC.

Transfer Development Credit Program

The County's Transfer of Development Credit (TDC) program was adopted in 1996 as a land use planning tool which allows for the movement (transfer) of development from one parcel of land to another. A site from which development credits have been transferred is called the "sending site", and has its development potential reduced or retired through recordation of a permanent conservation easement or other instrument. A site which receives development credits is called the "receiving site" and may be developed with a higher density than would otherwise be allowed under the current land use category or as otherwise set through planning area standards. The overall goal of the program is to encourage development in locations that can better support it, namely urban areas where services and public improvements are more available or established, rather than rural areas.

The Board of Supervisors amended the Ordinance in 2011, adding language requiring the retirement of a TDC credit for any land division (parcel map or tract map) located outside of an urban or village reserve line (Section 22.22.020(D) and Section 22.24.070(B)(2)). Those rural subdivisions required to purchase TDC's are governed by Section 22.24.070(B)(2) rather than those "receiving sites" required to purchase density bonus TDC's governed by Section 22.24.060 and Section 22.24.070.

The tentative parcel map is a rural subdivision and is required to purchase one (1) TDC in order to subdivide the parcel. Credits are required to be purchased from a "sending site" within a five mile radius. If credits are not available within a five mile radius from the subject site, Section 22.24.080 requires that the source of the credits be located within the same geographical area. There are no credits available within a five mile radius of the subject site. However, there are TDC's available from an existing "sending site" within the same geographical area (North County planning area.)

Transfer Development Credit Exception

Although Land Use Ordinance Section 22.22.020(D) and 22.24.070(B)(2) require the transfer of a development credit for any land division located outside of a village or urban reserve line, Section 22.24.070(B)(3) provides an exception to the requirement for a TDC where the Review Authority first finds that: "Retirement of credits is unnecessary due to specific circumstances applicable only to the subject site (for example if credits are not available within the area defined in Section 22.24.080)".

Conclusion

The Subdivision Review Board considered the applicant's reasoning and discontent with the requirement of the TDC. The Subdivision Review Board discussed the issue and purpose of the TDC program and determined there was not adequate

information to support the findings required by Section 22.24.070(B)(3) that would allow for an exception to be made to waive TDC requirements. Therefore, staff recommends that the tentative parcel map be required to retire (purchase) one (1) TDC credit as conditioned by the Subdivision Review Board.

Issue 3. The appellant requests the Board consider eliminating Condition of Approval No. 13 (Use of Community Water).

Staff Response: Condition No.13 requires the appellant to use community water because the newly created Parcel 1 is within the Atascadero Mutual Water Company (AMWC) service boundary. This is consistent with the County Building and Construction Ordinance (Title 19) per Section 19.07.040.

Condition No. 13 as approved by Subdivision Review Board:

13. This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and septic or individual well and septic system. Copies of which are attached hereto and incorporated by reference herein as though set forth in full.

Existing Residence on Site (Proposed Parcel 2)

According to AMWC, the water company does not limit the usage of existing wells within their service boundary for domestic uses. The project site has an existing residence, which is served by AMWC from a meter on Carmel Road, and also an on-site well. With the proposed lot-split, the existing well will be located within the newly created Parcel 1. AMWC prohibits the new Parcel 1 to connect to the existing water main on Carmel Road due to concerns with multiple property access easements and extended lateral connection. The closest water main is located approximately 1000 feet south of the appellant's property on Sandoval Road.

Proposed Parcel 1

The appellant would like to use an existing on-site well to serve the proposed Parcel 1. The appellant submitted supporting information including a will-serve letter from AMWC (May 19, 2014) and a water service map of the subject site vicinity showing the extent of properties on community water and individual wells in the vicinity. According to the will-serve letter, AMWC does not object to the use of the existing on-site well to serve the proposed Parcel 1. Both documents are included with the appeal letter in Attachment 2.

Title 19 Building and Construction Ordinance

Section 19.07.040 states that if a parcel is relying on a well for domestic water, building permits can only be issued if it is located outside a community service boundary, unless a modification is granted by the Building Official. Modification to Title 19 requirement may be approved if compelling evidence is provided showing special reasons exist that make compliance with the strict letter of the Building Code impractical and that an equivalent solution is provided (per Section 104.10 of the California Building Code). Compelling evidence can be and is not limited to the following; a) verification letter from AMWC that the well can be used for domestic purpose even though it is within their service boundary, b) verification letter from AMWC stating there is no future plans to extend the existing water main along Sandoval Road and c) cost estimate(s) showing significant financial burden to the applicant in order to connect to community water system. The Building Official had previously granted modifications to this standard, mainly for non-domestic water wells (irrigation purposes).

Conclusion

Consistent with the County's Building and Construction Ordinance (Title 19), community water service is considered more reliable than individual wells for new domestic water use. In addition, extension of community water service is important to the orderly extension of public service in the area. Modification request(s) to Title 19 is subject to the discretion of the Building Official, and is reviewed on a case-by-case basis, in accordance with Section 104.10 of the California Building Code. In order to use the on-site well for the proposed Parcel 1, the appellant will need to submit adequate information for the modification evaluation. Failing which, the appellant will need to connect to the community water system.

Therefore, staff is recommending Condition No.13 be revised allowing modification to the Title 19 domestic water requirements in accordance with Section 104.10 of the California Building Code and adding the standard conditions of approval for subdivisions using individual well and septic system.

Revised Condition No. 13:

13. *This subdivision is also subject to the standard conditions of approval for all subdivisions using community water and septic or individual well and septic system. Copies of which are attached hereto and incorporated by reference herein as though set forth in full. Modification(s) to the Title 19 domestic water use requirements for single family dwellings may be granted by the Building Official if the applicant provides sufficient information to allow such modification evaluation to be made in accordance with Section 104.10 of the California Building Code.*

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to: Public Works, Environmental Health, Air Pollution Control District, Parks & Recreation, Cal Fire, Santa Margarita Fire, City of Atascadero, and the Santa Margarita Area Advisory Council.

FINANCIAL CONSIDERATIONS

The required appeal fee of \$850.00 was paid by the appellant.

RESULTS

Partially upholding the appeal on Condition of Approval No. 7 (gas line installation) and Condition of Approval No. 13 (community water) and modifying the Subdivision Review Board's action on Tentative Parcel Map CO12-0065 will result in the Appellant being required to comply with the following:

1. Revised Condition No. 7 – requires the applicant to provide evidence of refusal-to-serve by the gas purveyor and verification that no gas service will be available in the immediate future in the vicinity;
2. Revised Condition No. 13 - allows modification(s) to the Title 19 domestic water requirements to use an on-site well within community water service boundary;

and

Denying the appeal on Condition of Approval No. 12 (Transfer of Development Credit requirement) and affirming the Subdivision Review Board's action on Tentative Parcel Map CO12-0065 will result in the Appellant being required to comply with the following:

3. Condition No. 12 - retire one (1) Transfer of Development Credit.

This action is consistent with the countywide goals of promoting well-governed and livable communities.

ATTACHMENTS

1. Attachment 1 - Board of Supervisors Resolution with findings and conditions
2. Attachment 2 - Appeal letter, May 15, 2015
3. Attachment 3 - Minutes, from the May 4, 2015 Subdivision Review Board hearing
4. Attachment 4 - Staff report, from the May 4, 2015 Subdivision Review Board hearing